

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

DELEVECCIO T. THOMAS,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:23CV786
	)	
EDDIE BUFFALOE,	)	
	)	
Respondent.	)	

**ORDER**

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on September 13, 2023, was served on the parties in this action. (ECF Nos. 2, 3). No objections were filed within the time prescribed by § 636.

The Court hereby adopts the Magistrate Judge's Recommendation.

**IT IS THEREFORE ORDERED** that this action be construed as a habeas petition under 28 U.S.C. § 2254 and **DISMISSED** *sua sponte* without prejudice to Petitioner filing a new petition which corrects the defects of the current Petition or pursuing any remedies in the state courts. Any new petition must be accompanied by either the five-dollar filing fee or a current application to proceed *in forma pauperis*.

This, the 11<sup>th</sup> day of October 2023.

/s/ Loretta C. Biggs  
United States District Judge